1 THE HONORABLE JAMES L. ROBART 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 WESTERN DISTRICT OF WASHINGTON 8 AT SEATTLE 9 VANESSA SIMMONDS, 10 Plaintiff, 11 and 12 GEEKNET, INC. (f/k/a VA LINUX 13 SYSTEMS, INC.), a Delaware corporation, Case No. 2:12-cv-01937 JLR 14 **DEFENDANT'S NOTICE OF** Nominal Plaintiff, SUPPLEMENTAL AUTHORITY 15 16 v. 17 CREDIT SUISSE SECURITIES (USA) LLC, 18 a Delaware limited liability company, 19 Defendant. 20 21 Pursuant to Local Civil Rule 7(n), Defendant Credit Suisse Securities (USA) LLC 22 ("Credit Suisse") respectfully submits the Second Circuit's decision issued today in Mercer v. 23 Gupta, No. 12-3393 (Apr. 5, 2013) (per curiam), as supplemental authority in support of Credit 24 Suisse's pending motion to dismiss. The Second Circuit affirmed the district court's decision 25 in Mercer v. Gupta, 880 F. Supp. 2d 486 (S.D.N.Y. 2012), which dismissed a Section 16(b) 26 case brought by Plaintiff's counsel here, and which Credit Suisse cited in its briefs. See Mot. to 27 DEFENDANT'S NOTICE OF SUPPLEMENTAL LANE POWELL PC 1420 FIFTH AVENUE, SUITE 4100 **AUTHORITY - 1** SEATTLE, WASHINGTON 98101-2338 Case No. 2:12-cv-01937 JLR 206.223.7000 FAX: 206.223.7107

123414.0002/5642690.1

1 Dismiss [Dkt.31] at 2 n.2, 35, 36, 37; Reply in Supp. of Mot. to Dismiss [Dkt. 36] at 12. A 2 copy of the decision is attached hereto as Exhibit A. 3 DATED: April 5, 2013 LANE POWELL PC 4 5 By s/Christopher B. Wells 6 Christopher B. Wells, WSBA No. 08302 1420 Fifth Avenue, Suite 4200 7 P.O. Box 91302 Seattle, WA 98111-1302 8 Telephone: 206.223.7000 Facsimile: 206.223.7107 9 Email: wellsc@lanepowell.com 10 WILMER CUTLER PICKERING HALE 11 AND DORR LLP David S. Lesser (pro hac vice) 12 Fraser L. Hunter (pro hac vice) Colin T. Reardon (pro hac vice) 13 7 World Trade Center 250 Greenwich Street 14 New York, NY 10007 Telephone: 212.230.8851 Facsimile: 212.230.8888 15 Email: david.lesser@wilmerhale.com 16 Email: fraser.hunter@wilmerhale.com 17 Attorneys for Defendant Credit Šuisse Securities (USA) LLC 18 19 20 21 22 23 24 25 26 27

DEFENDANT'S NOTICE OF SUPPLEMENTAL AUTHORITY - 2 Case No. 2:12-cv-01937 JLR 123414.0002/5642690.1 LANE POWELL PC 1420 FIFTH AVENUE, SUITE 4100 SEATTLE, WASHINGTON 98101-2338 206.223.7000 FAX: 206.223.7107

Washington and the United States that on the 5th day of April, 2013, the document atta bereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system.	1	
The undersigned certifies under penalty of perjury under the laws of the States Washington and the United States that on the 5th day of April, 2013, the document attate hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF sy. In accordance with their ECF registration agreement and the Court's rules, the Clerk of Court will send e-mail notification of such filing to the following persons: **David M. Simmonds** GORDON TILDEN THOMAS & CORDELL LLP 1001 4TH AVE STE 4000 SEATITLE, WA 98154 206-467-6477 Email: dsimmonds@gordontilden.com **Jeffrey I Tilden** GORDON TILDEN THOMAS & CORDELL LLP 1001 4TH AVE STE 4000 SEATILE, WA 98154 206-467-6477 Email: jtilden@gordontilden.com **Jan S Birk** KELLER ROHRBACK 1201 3RD AVE STE 3200 SEATTLE, WA 98101-3052 206-623-1900 Email: ibirk@kellerrohrback.com **William Candler Smart* KELLER ROHRBACK 1201 3RD AVE STE 3200 SEATTLE, WA 98101-3052 206-623-1900 Fax: 206-623-3384 Email: wsmart@kellerrohrback.com	1	<u>CERTIFICATE OF SERVICE</u>
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26	21 22 23	William Candler Smart KELLER ROHRBACK 1201 3RD AVE STE 3200 SEATTLE, WA 98101-3052 206-623-1900 Fax: 206-623-3384
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11	Executed on the 5th day of April, 2013, at Seattle, Washington.
12	
13	<u>s/Christopher B. Wells</u> Christopher B. Wells,
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